IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 103 OF 2003

Rubin Gulab Mohite ... Appellant

V/s

The State of Maharashtra ... Respondent

None for the appellant.

Smt. S.D. Shinde, A.P.P. for the respondent State.

CORAM: V.G. PALSHIKAR &
SMT. NISHITA MHATRE, JJ.

DATED: 6TH NOVEMBER, 2006.

ORAL JUDGMENT (PER SMT. NISHITA MHATRE, J.):

1. The appeal is directed against the judgment and order passed by the Sessions Judge, Sangli. The learned Judge vide his judgment dated 17.9.2002 has convicted the accused under Sections 302, 309 and 452 of the Indian Penal Code. Hence he was sentenced to suffer life imprisonment besides the other sentences which are to run concurrently.

2. The case of the prosecution is that the accused had a liaison with one Usha, the victim in this case. Their

relationship developed after the accused had donated blood to the victim's sister. The victim Usha refused to continue their dalliance as her children were growing. This irked the accused. He came to her house on 8.9.2001 at about 9.30 a.m. and demanded a saree. When she refused to oblige, he threatened her. Usha stood in the door way of the house when the accused whipped out a knife from his pocket, held Usha against the wall and stabbed her in the stomach and chest. When Usha tried to run away, the accused stabbed her on the back. When Usha's daughter, Kartika ran to her assistance, the accused kicked her away. The accused then inflicted an injury on himself with the same knife and ran towards a flag which was hoisted nearby. This incident of assault was witnessed by Usha's sister, Chhaya who is the complainant in this case.

3. Chhaya has been examined as PW-1. She has deposed that when she heard Usha's screams, she ran towards her house and saw the accused assaulting her with the knife on her back. This witness tried to catch the accused but he ran away. She has seen the accused stab himself. This witness admitted Usha in the hospital where the victim died at about 10.00 a.m. In the cross-examination she has testified that the intimacy which had developed between Usha and the accused was not

approved by any of the members of Usha's family, including herself.

4. PW-4 is also an eye witness to the incident. He is the 11 year old son of PW-1. He has stated that he knew the accused as he used to visit the victim often. The witness then says that he saw the accused on 8.9.2001 while he was on his way to answer the call of nature. He saw the accused holding the victim against the wall near the front door and stabbing her. He was rooted to the ground as he was horrified seeing the assault on his aunt. This witness has corroborated the testimony of PW-1. Both their testimonies are natural and believable.

5. PW-5 is the neighbour of the victim. She has seen the victim after she was stabbed. She went to the victim's house when she heard the commotion. This witness has also stated that PW-1 was crying out that the accused had assaulted Usha.

6. The ocular testimony of these witnesses is corroborated by the medical evidence on record. PW-3 is the medical officer who has conducted the post-mortem examination of the deceased. He has opined that the injuries inflicted on the victim were sufficient to

cause her death. This medical officer has also examined the accused when he was admitted to the hospital in an injured state. The witness has deposed that the injuries of the accused could either be self-inflicted or could be inflicted by a third person. The description of the injuries sustained by the victim matches the ocular evidence on record, namely, that the victim was assaulted on the chest, stomach and back. In our view, therefore, the homicidal death of Usha has been proved by the prosecution. The prosecution has also proved that the accused was responsible for her death.

7. The prosecution has relied on certain other evidence to corroborate the eye witness accounts. PW-2 is a panch witness who has proved the panchnama regarding recovery of the knife. The Investigating Officer has been examined by the prosecution as PW-6. He has proved the inquest panchnama and spot panchnama. He has also deposed regarding seizure of various articles, including clothes of the victim and the accused. These articles including the knife which was seized were sent to the chemical analyzer for analysis. A perusal of the report submitted by the chemical analyzer indicates that all these articles had human blood stains on them. However, the grouping of the blood on these articles was not

possible and remained inconclusive.

8. In our opinion, the prosecution has proved by adequate evidence on record that the accused has committed the offence of culpable homicide amounting to murder. He is also guilty of having inflicted the injuries upon himself and, therefore, of having attempted to commit suicide.

9. Although the advocate appointed was not present in Court when the matter was called out for hearing, we deemed it necessary to decide the matter in his absence as the accused has been in jail since 19.9.2001. With the assistance of the learned A.P.P. we have reappreciated the evidence on record and found that the learned Sessions Judge has reached the correct conclusion. There is no error in his assessment of the evidence and the findings drawn by him.

10. Appeal dismissed.

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